

Paul N. Tauger (*Admitted pro hac vice* – CA Bar No. 160552)

Email: pnt@eclipsegrp.com

Anna M. Vradenburgh (*Admitted pro hac vice* – CA Bar No. 163212)

Email: amv@eclipsegrp.com

THE ECLIPSE GROUP LLP

2020 Main Street, Suite 600

Irvine, CA 92614

Telephone: 949-851-5000 ext. 110

Facsimile: 949-851-5051

Devon Zastrow Newman, OSB #014627

Email: dnewman@schwabe.com

SCHWABE, WILLIAMSON & WYATT, P.C.

1211 SW 5th Ave., Suite 1900

Portland, OR 97204

Telephone: 503-222-9981

Facsimile: 503-796-2900

Attorneys for Defendant and Counterclaimant Tenza Trading Ltd.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

CALISTA ENTERPRISES LTD, a
Republic of Seychelles Company,

Plaintiff,

vs.

TENZA TRADING LTD., a Cyprus
Company,

Defendant.

Case No. 3:13-cv-01045-SI

DEFENDANT AND COUNTERCLAIMANT
TENZA'S CORRECTION TO ITS
REPRESENTATION OF LAW AT ORAL
ARGUMENT ON ITS PENDING MOTION
TO DISMISS

TENZA TRADING LTD., a Cyprus
Company,

Counterclaim Plaintiff,

v.

CALISTA ENTERPRISES LTD, a
Republic of Seychelles Company; and
ALEXANDER ZHUKOV, A
Czechoslovakian citizen,

Counterclaim Defendants.

On June 27, 2014, at the oral argument on Tenza Trading Ltd.'s ("Tenza") pending Motion to Dismiss (Docket No. 74), Tenza argued, in good faith, that 15 U.S.C. § 1114 was retrospective in its application, i.e. that a registrant lacked standing to bring an action pursuant to this section until, "A domain name registrant [has had a] domain name . . . suspended, disabled, or transferred."

Tenza's representation of the law was predicated upon the plain language of the statute, as well as a brief survey of § 1114 cases immediately prior to the hearing. As the Court will recall, this issue was not briefed by the parties and was only discovered during Tenza's preparation of its dispositive motion.

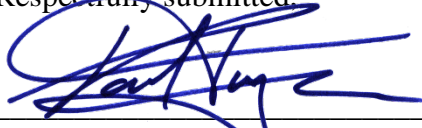
However, in conducting research for Tenza's Opposition to Calista's Motion for Leave to Amend, Tenza's counsel has discovered representative authority to the contrary. *See, e.g., Barcelona.com, Inc. v. Excelentísimo Ayuntamiento De Barcelona*, 330 F.3d 617, 626 (4th Cir. 2003); *Sallen v. Corinthians Licenciamentos LTDA*, 273 F.3d 14, 26 (1st Cir. 2001), and the cases cited therein. These cases hold that an adverse order pursuant to a UDRP panel decision is, alone, a sufficient basis upon which a registrant may initiate an action under 15 U.S.C. § 1114.

Tenza wishes to bring its mistaken statement of law to the Court's attention, and

therefore withdraws this aspect of its argument, though standing on the remainder of its arguments presented both orally and in its pleadings.

Date: July 16, 2014

Respectfully submitted,



Paul N. Tauger, Admitted *Pro Hac Vice*
Anna M. Vradenburgh, Admitted *Pro Hac Vice*
THE ECLIPSE GROUP LLP
Telephone: 949-851-5000 ext. 110
Facsimile: 949-851-5051

Devon Zastrow Newman, OSB #014627
SCHWABE, WILLIAMSON & WYATT, P.C.
Telephone: 503-222-9981
Facsimile: 503-796-2900

Attorneys for Defendant Tenza Trading Ltd.